


ORIGINAL

Approved:   
BENJAMIN A. GIANFORTI  
Assistant United States Attorney

Before: THE HONORABLE LISA MARGARET SMITH  
United States Magistrate Judge  
Southern District of New York

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UNITED STATES OF AMERICA	:	<u>COMPLAINT</u>
- v. -	:	Violation of
	:	18 U.S.C. §§ 922(g)(1)
JIMMY ABELLARD,	:	and 2
	:	
Defendant.	:	COUNTY OF OFFENSE:
	:	ROCKLAND

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19mj 11934

SOUTHERN DISTRICT OF NEW YORK, ss.:

MATTHEW SANSONE, being duly sworn, deposes and says that he is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives ("ATF"), and charges as follows:

COUNT ONE

1. On or about December 18, 2019, in the Southern District of New York and elsewhere, JIMMY ABELLARD, the defendant, knowing he had previously been convicted in a court of a crime punishable by imprisonment for a term exceeding one year, knowingly did possess a firearm, to wit, a loaded Smith & Wesson, model M&P Shield, 9mm caliber pistol, and the firearm was in and affecting commerce.

(Title 18, United States Code, Sections 922(g)(1) and 2.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

2. I am a Special Agent with the ATF, and I have been personally involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, as well as my examination of reports and records. Because this affidavit is being submitted for the

limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part.

3. Based on my review of law enforcement reports, my discussions with law enforcement officers, and my personal involvement in this investigation, I have learned the following, in substance and in part:

a. On or about December 18, 2019, in connection with an investigation of illegal possession of firearms in Rockland County, members of the Rockland County Intelligence Center (the "RCIC"), the Rockland County Sheriff's Office (the "RCSO"), and the Ramapo Police Department (the "RPD") became aware of certain videos being posted to a publicly available social media site by JIMMY ABELLARD, the defendant, and others who appeared to be with ABELLARD. ABELLARD is known to law enforcement in and around Rockland County, including the RCIC, the RCSO, and the RPD, as a prior violent offender.

b. I and other law enforcement officers reviewed the videos. In the videos, which were posted at approximately 3:30 PM on or about December 17, 2019, ABELLARD could be seen with what appeared to be a Smith & Wesson, model M&P Shield pistol and a loaded magazine on his lap in what appeared to be a hotel room based on the furniture and other décor that was visible in the background of the video. Based on the furniture and décor, and the general color scheme of the room, members of the RCIC and the RPD were able to determine that the videos were likely being shot at a national chain hotel in Suffern, New York where the RPD has previously conducted law enforcement operations.

c. ABELLARD posted another video from what appeared to be the same hotel room at approximately 10:40 AM on or about December 18, 2019. At approximately 12:00 PM, members of the RCSO and RCIC set up surveillance on the hotel in unmarked police cruisers.

d. While the surveillance was under way, a confidential informant (the "CI") contacted a Task Force Officer from Homeland Security Investigations (the "TFO") who has been

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involved in this investigation.<sup>1</sup> The CI reported to the TFO that one of ABELLARD's associates, who was with ABELLARD at the hotel, had just posted an image on social media of ABELLARD and others getting into a white Mercedes Benz with black rims.

e. At approximately 1:15 PM, a member of the RCIC saw a white Mercedes Benz with black rims (the "Mercedes") driving near the hotel and began to follow it. While the Mercedes was being followed, it failed to signal before turning twice, in violation of the New York Vehicle and Traffic Law. On this basis, the RCIC conducted a traffic stop of the Mercedes in the parking lot of the hotel at approximately 12:50 PM.

f. As they were approaching the Mercedes, the RCIC officers smelled the odor of marijuana emanating from the vehicle and identified four people in the vehicle, one of whom was ABELLARD, who was known to the RCIC officers. All four of the vehicle's occupants were eventually asked to get out of the car. I arrived at the scene with the TFO at approximately the same time.

4. I and the TFO took JIMMY ABELLARD, the defendant, aside and told ABELLARD, in substance and in part, that he was not under arrest and that we had seen the video of ABELLARD with the firearm discussed above. ABELLARD immediately confessed to having the firearm and told us that it was inside his hotel room in the safe. ABELLARD also stated, in substance and in part, "I just got out. I don't want to go back to prison. Another felony will get me deported." ABELLARD then consented to our entering and searching the hotel room to find the firearm and provided us with the combination to the safe.

5. Shortly thereafter, we learned that the hotel room was registered under JIMMY ABELLARD's, the defendant, friend's name. Before entering the room, the friend consented verbally and in writing to our searching the room. At approximately 1:30 PM, I and other members of law enforcement entered the hotel room and recovered from the room safe what appeared to be the same firearm and ammunition seen in the live-streamed video.

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<sup>1</sup> The CI has an extensive criminal history, including charges that are currently open. He is not being paid and has not been promised any leniency in exchange for his/her assistance. Based on my involvement in this and other investigations, I can attest that the CI is reliable and has been corroborated by other sources in this investigation.

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6. After the firearm and ammunition were recovered, JIMMY ABELLARD, the defendant, was placed under arrest and *Mirandized*. ABELLARD later executed a written *Miranda* waiver before being interviewed on video. During that interview, ABELLARD admitted, in substance and in part, that he had had the firearm - which he described as a "9" - in the hotel room; that the firearm had been in his lap; that he had been posting to social media from inside the hotel room; and that he was a felon.

7. Based on my later examination of the firearm and ammunition, I determined that the firearm was a Smith & Wesson, model M&P shield, 9mm caliber pistol with the serial number HTT0771 and the ammunition was 9mm caliber from two different makers, Federal Cartridge Co. and Winchester. I also determined that the firearm was manufactured in either Connecticut or Maine, the Federal Cartridge Co. brand ammunition was manufactured in either Minnesota or Idaho, and the Winchester brand ammunition was manufactured in Illinois.

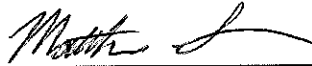
8. I have reviewed a criminal history report for JIMMY ABELLARD, the defendant, from which I have learned that:

a. On or about September 6, 2016, in Rockland County Court, ABELLARD was convicted of Attempted Assault in the Second Degree: Injure Person While Confined in a Correctional Facility, in violation of New York Penal Law Section 120.05, and Criminal Possession of Stolen Property in the Fourth Degree: Firearms, in violation of New York Penal Law Section 164.45. Based on my training and experience, I am aware that these crimes are felonies in New York State and are punishable by a term of imprisonment exceeding one year. ABELLARD was sentenced to 18 months to three years' imprisonment in connection with these convictions.

b. On or about June 8, 2010, in Rockland County Court, ABELLARD was convicted of Grand Larceny in the Fourth Degree: Credit Card, in violation of New York Penal Law Section 155.30. Based on my training and experience, I am aware that this crime is a felony in New York State and is punishable by a term of imprisonment exceeding one year. ABELLARD was sentenced to nine months' imprisonment in connection with this conviction.

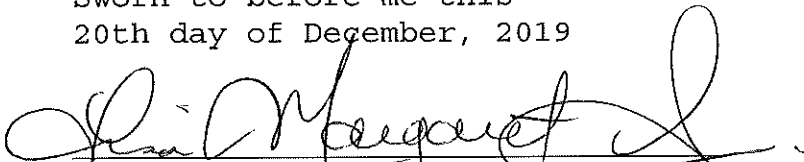
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WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of JIMMY ABELLARD, the defendant, and that he be imprisoned or bailed, as the case may be.



Special Agent Matthew Sansone  
Bureau of Alcohol, Tobacco, Firearms,  
and Explosives

Sworn to before me this  
20th day of December, 2019



THE HONORABLE LISA MARGARET SMITH  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK